

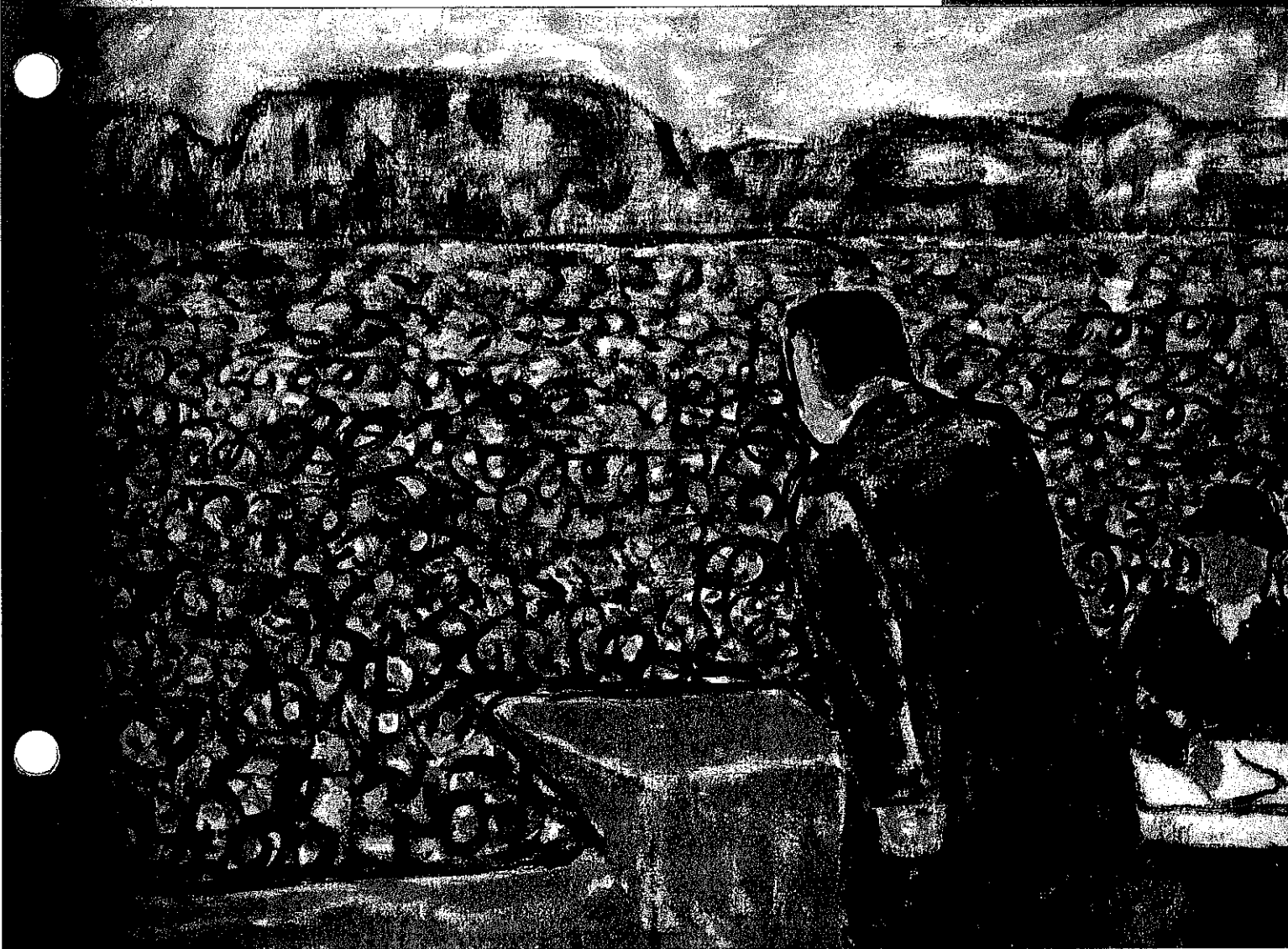
How does the Constitution protect freedom of expression?

LESSON PURPOSE

In this lesson you will learn about how the Constitution protects freedom of expression. You will also learn why freedom of expression is important to you as an individual and to the preservation and improvement of our constitutional democracy.

When you finish this lesson, you should be able to explain the importance of freedom of expression. You should also be able to describe situations in which it might be reasonable and fair to place limitations on this freedom.

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TERMS TO UNDERSTAND



abridging
assemble
First Amendment
freedom of expression
redress of grievances

What is freedom of expression?

One of the main purposes of government is to protect our freedom. The **First Amendment** to our Constitution protects our freedom of expression. This is what the First Amendment says about freedom of expression:

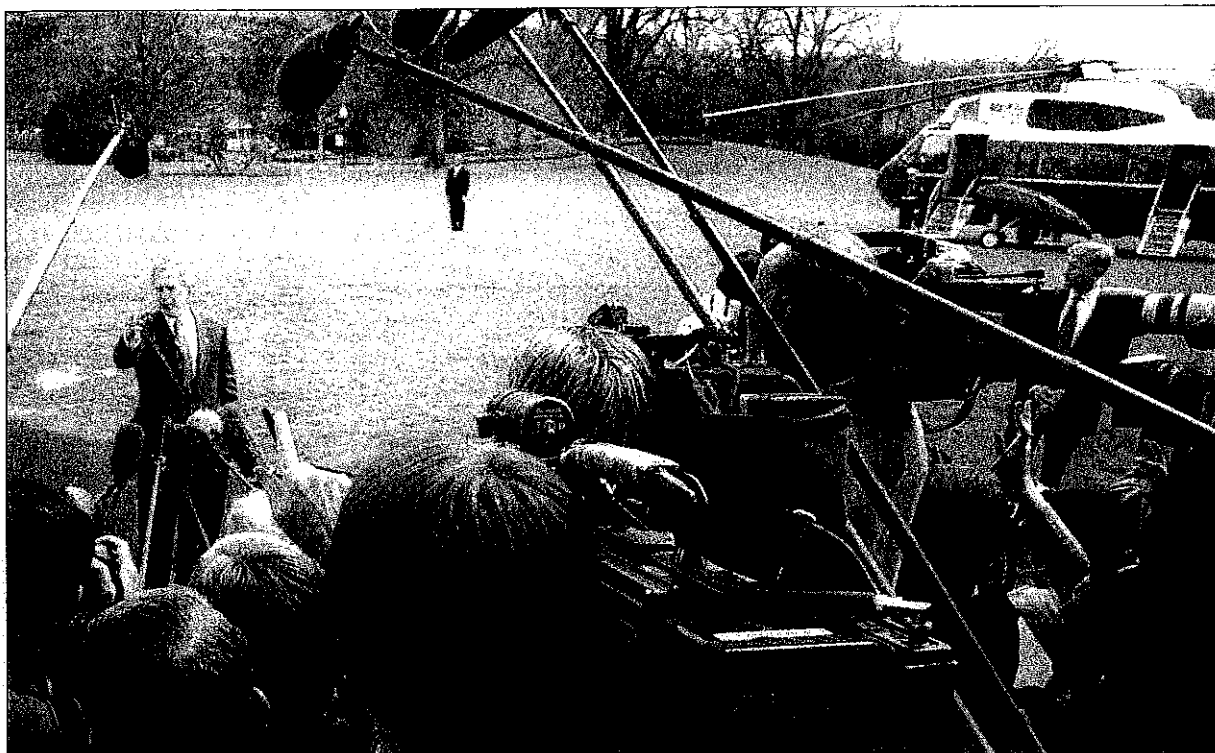
Congress shall make no law... **abridging** [limiting] the freedom of speech, or of the press; or the right of the people peaceably to **assemble** [get together in one place], and to petition the government for a **redress of grievances** [to correct wrongs].

As you can see, this section of the First Amendment includes several important freedoms. **Freedom of expression** is freedom of speech, of the press, of assembly, and of petition. The right of assembly is the right to meet with others to discuss your beliefs, ideas, or feelings.

It is important to understand that the First Amendment limits the powers of Congress. It prevents Congress from placing unreasonable and unfair limits on freedom of expression. That is why the Amendment begins with the phrase, "Congress shall make no law."



What rights are the people in this photograph exercising?



How does the First Amendment protect the freedom of the press? What are some benefits of this freedom?

What are some benefits of freedom of expression?

The Founders of our nation believed that the right to hold and express one's beliefs was essential if citizens were to participate in the affairs of government. The following arguments highlight the importance of freedom of expression.

① Individual development and human dignity

It is important for your growth as a person to have the right to present your ideas and to consider other points of view. Your dignity as a person should be respected by allowing you the freedom to say what you think and to hear what others think.

② Advancement of knowledge

It is easier for new discoveries to be made when ideas can be discussed freely. Even if you disagree with someone, that person may say something that helps you test your knowledge and increase your understanding.

③ The maintenance of representative democracy

Individual citizens participate in running our country by voting their representatives to Congress and other government officials. Citizens can also participate in making decisions about government policies. To make wise choices, you need to have good information. Free expression does not guarantee complete or accurate information, but it increases the chances of getting such information.

Should schools be allowed to place limits on freedom of expression?

When should students' freedom of expression be limited? The following is a summary of an important U.S. Supreme Court case that dealt with this question. Read and discuss the summary with a partner. Do you agree or disagree with the decision of the U.S. Supreme Court? Be prepared to share your opinions with the class.

Tinker v. Des Moines School District (1969)

This case involved a few high school students who wore black armbands to school. They were protesting American involvement in the Vietnam War. The school principal told the students to remove their armbands. The students refused and were suspended from school. The suspension was to last until they agreed to come back without the armbands. The parents took the case to court. They argued that the school was depriving the students of their right to freedom of expression.



Do you agree with the Supreme Court's decision in the Tinker case? Why or why not?

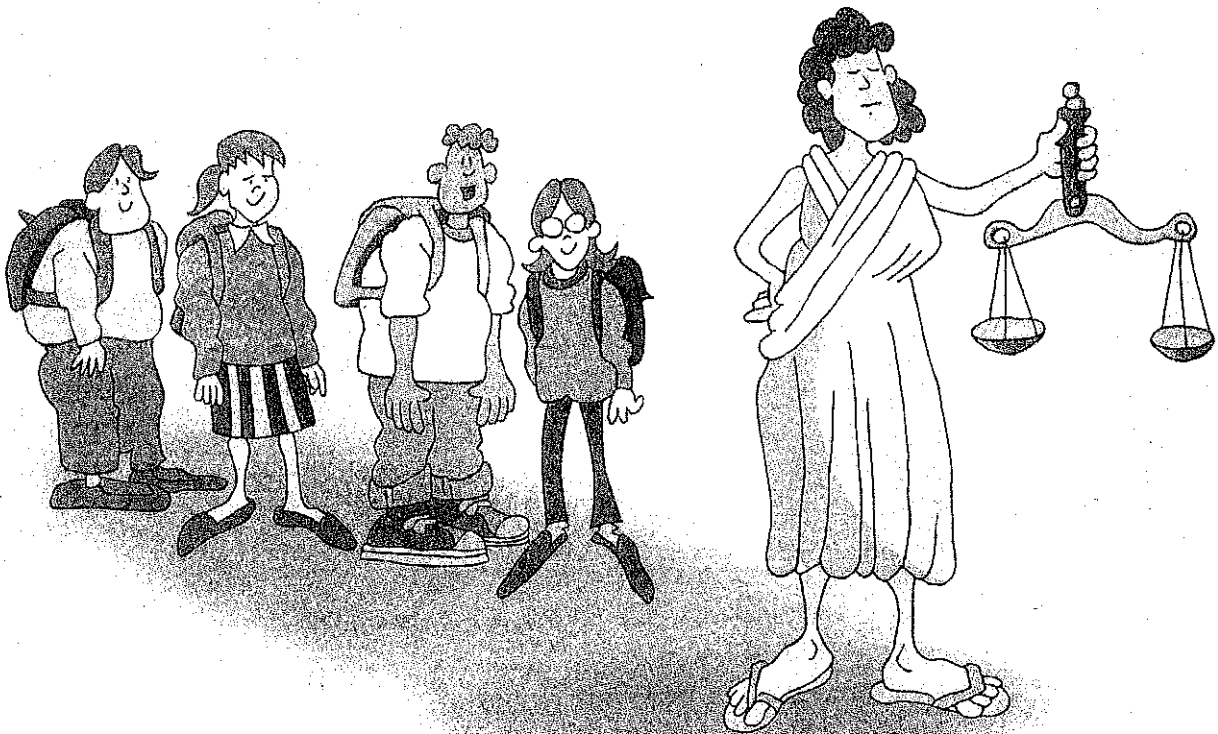
The school argued that they were justified in suspending the students. They said the suspension had been necessary to prevent any disturbance that could be caused by wearing the armbands.

The U.S. Supreme Court ruled that the school's action was an unnecessary limitation on freedom of expression. The Court said that a school cannot limit a student's right to freedom of expression unless the student's exercise of that right disrupts the educational process. The Court said there was "no evidence whatever of... interference...with the school's work or... with the rights of other students to be secure and to be let alone."

Justice Abe Fortas wrote the opinion for the Court. He said,

"Any word spoken, in class, in the lunchroom or on the campus, that deviates from the views of another person, may start an argument or cause a disturbance. But our Constitution says we must take this risk... and our history says that it is this sort of hazardous freedom—this kind of openness—that is the basis of our national strength and of the independence...of Americans."

The Court said that students do not give up their "constitutional rights to freedom of speech or expression at the schoolhouse gate." Freedom of expression should be protected unless it clearly violates other important rights and interests.



Should students have the same right to freedom of expression as adults? Why or why not?



Should people be allowed to demonstrate about any issue that concerns them? Why or why not?

② Peaceful social change

Freedom of expression allows you to try to influence public opinion by persuasion without feeling you have to resort to violence to make changes. Also, if you have the opportunity to express your opinions freely, you might be more willing to accept government decisions, even decisions you do not agree with.

Should there be limits to freedom of expression?

Many people believe that freedom of expression is necessary for the protection of all our individual freedoms. Does this mean there should be no limits to freedom of expression? Should you have the right to yell "Fire!" in a crowded theater when there is no fire? Such an action may cause bodily harm to others when they run to safety.

Other situations are more complicated. What if you wanted to convince other people that we should change our type of government? Should government be



What limits, if any, should there be on freedom of expression? Can you name some situations where freedom of expression might endanger people?

able to keep you from doing so? What if you are part of an unpopular group that wants to have a public demonstration in the streets? Should government be able to stop you because of the possibility of a riot?

Over the years, the courts in our country have developed guidelines to use in limiting freedom of expression. The courts use these guidelines to decide when the right to free expression interferes with other important rights and interests.

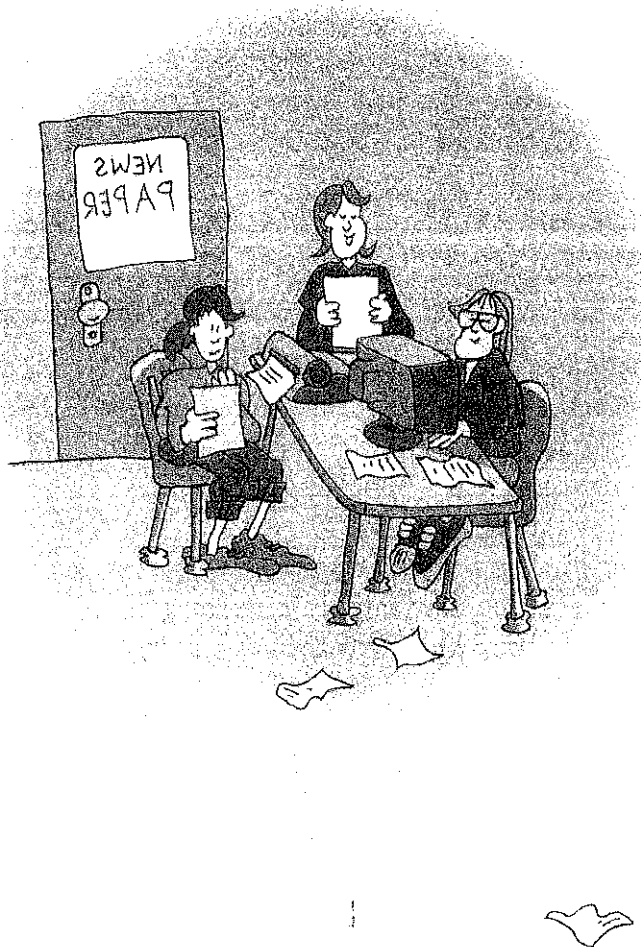
Suppose your right to freedom of expression in a particular situation

is dangerous to public safety, national security, or some other important interest. If the danger is great enough, the courts sometimes allow freedom of expression to be limited.

Also, one person's right to freedom of expression may conflict with someone else's rights. The right to a free press might conflict with someone's right to a fair trial in a court of law. For this reason, we accept limitations that are intended to protect everyone's rights.

How would you balance the rights and interests in this case?

The following U.S. Supreme Court case involves a situation about the need to balance freedom of expression with other important rights and interests. Work in groups of three to five students to complete this exercise. Each group should read the case and answer the questions that follow it. Then each group should share its answers with the class for further discussion.

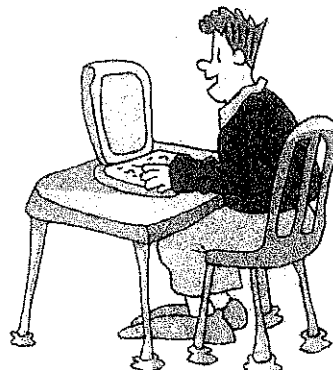


Hazelwood School District v. Kuhlmeier (1988)

The journalism class in Hazelwood East High School wrote and published the high school's newspaper. In one issue of the paper, students planned to print an article about teenage pregnancy. The principal of the school thought that the story was not appropriate for younger students.

In the same issue of the paper the students also planned to run a story in which a student wrote about divorce and made negative remarks about her father. The principal said that the newspaper had not given the father a chance to respond to his daughter's remarks. The principal ordered both stories to be removed from the paper before it was printed and distributed.

- ❶ What are the conflicting rights and interests in this case?
- ❷ In what ways is this case similar to the *Tinker* case? In what ways is it different?
- ❸ Examine each of the two opinions on the next page. Which opinion would you select to decide this case? Explain your reasoning.



OPINION 1

A school does not need to tolerate student speech that is inconsistent with its basic mission to educate young people. The public schools are not like the streets, parks, and other public places that are used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Accordingly, the principal had a right to regulate the contents of the school newspaper in any reasonable manner. It is this standard, rather than the decision in *Tinker*, that governs this case.

OPINION 2

The school principal removed the articles from the newspaper not because the article would interfere with school discipline. He removed the articles because he considered them inappropriate, personal, and unsuitable for student consumption. The principal's action violated the First Amendment's prohibitions against censorship of any student expression that neither disrupts class work nor denies the rights of others.



This is Robert E. Reynolds, the principal of Hazelwood East High School, with a copy of the student newspaper. Under what conditions, if any, should a principal have the right to limit what can be printed in the school newspaper?

LESSON REVIEW

- ① How would you define freedom of expression?
- ② What are the benefits of freedom of expression to the individual and to society?
- ③ What are some circumstances that might cause government to limit the right to freedom of expression?
- ④ What rights and interests are involved when limiting freedom of expression in the public schools?

ACTIVITIES

- ① Learn about the policies in your school district or the rules at your school that regulate how students may exercise freedom of expression. Make a computer presentation so you can share what you learned with your class.
- ② Take photographs that illustrate the four parts of the right to freedom of expression. Make a collage of your photos showing the benefits of freedom of expression.
- ③ Suppose that an unpopular group wants to hold a demonstration in a public park in your community. Most people do not agree with the views of this group. People fear that the demonstration might become disorderly and disturb the peace. Work with a partner to create a skit. One of you should be in favor of allowing the group to hold the demonstration. The other should be opposed. Both of you should act out your views in front of the class and let them decide the issue.
- ④ Find a newspaper article that discusses someone exercising the right to freedom of expression in your community. Write an editorial based on the article for your school newspaper. In your essay explain the benefits of this right to you and your community.